

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

WATERMARK SOLID SURFACE, INC.,

Plaintiff,

v.

STA-CARE, INC.,

Defendant.

ORDER

08-cv-418-slc

On December 17, 2008, this court granted in part defendant's second motion to compel and granted partial cost-shifting in defendant's favor pursuant to Rule 37(a)(5). Defendant timely submitted a request for \$2300, representing 9.2 hours of work at \$250/hr. Plaintiff responds by asking the court to consider that at least some of the time claimed would have been expended reviewing the discovery responses no matter what. This is true.

Additionally, and in an equitable vein, I note that in a separate order today the court is granting summary judgment against plaintiff on all of its claims in this lawsuit. Although that decision is unrelated to the instant request, I am not inclined today to kick plaintiff or its attorney while they are down. I will shift only \$1000 of the claimed fees.

It is ORDERED pursuant to Rule 37(a)(5) that plaintiff and its attorneys are jointly and severally liable to pay \$1000 to defendant's law firm not later than April 17, 2009.

Entered this 17th day of March, 2009.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge